

**REMARKS**

Reconsideration is respectfully requested in view of the amendments and remarks made herein. Claims 1-2 and 4-10 are pending and stand rejected. Claim 3 has been cancelled without prejudice.

Claims 1-10 stand rejected under 35 USC 103(a) as being unpatentable over Lambrecht, (USP No. 6,181,800 B1) in view of Thomas et al. (USP No. 7,065,498).

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

As indicated by the Office Action Lambrecht fails to teach a method for a service provider to distribute an audio signal to a listener, as claimed in claim 1.

Further, claims 1 and 10 have been amended to recite the limitations of claim 3. Applicants submit that Lambrecht fails to teach the limitation of "wherein listener parameters in the set of head related transfer functions have been chosen between a number of sets of listener parameters each being specific for said listener," as in claim 1. The Office Action points to col. 2, lines 23-34 to show these limitations. Applicants respectfully disagree. In this section Lambrecht teaches selecting the best fit HRTF. Thus, only one is the best fit for a listener and the parameter not are not selected from a number of sets, e.g. only one. Accordingly, Lambrecht fails to teach the above limitations.

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The addition of Thomas fails to cure the infirmities of Lambrecht. The Office Action indicates that Thomas teaches the above limitations in col. 5, lines 15-20. Applicants respectfully disagree. In this section, Thomas teaches a client and server exchange authentication certificates and establish encryption protocols to use for further communication protocol and searches or creates a customer file. Thomas does not use a changed or personalized audio signal to allow access. Moreover, there would be no reason to, since access to content in Thomas is determined via authentication certificates and encryption protocols.

Further, applicants can find nothing in Thomas that teaches the limitations of "wherein the listener parameters in the set of head related transfer functions have been chosen between a number of sets of listener parameters each being specific for said listener."

With regard to independent claim 5, both Lambrecht and Thomas, alone or in combination fail to teach the limitations of "detecting said first listener parameters used for changing the audio impression of said audio signal, comparing said detected first listener parameters with second listener parameters and playing back said changed audio signal if said detected first listener parameters identify a listener being identical to the listener identified by said second listener parameters." The Office Action points to col. 5, lines 55-63 and Figs 1 & 2. The applicants respectfully disagree. In this section Lambrecht teaches an error correction method using calculated positional errors and if they are within an acceptable range, the current HRTF is used. Nothing therein teaches detecting said first listener parameters used for changing the audio impression of said audio signal, comparing said detected first listener parameters with second listener parameters and playing back said changed audio signal if said detected first listener parameters identify a listener being identical to the listener identified by said second listener parameters, as claimed in claim 5.

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Accordingly, the cited references fail to render obvious the subject matter recited in claims 1, 5 and 10 because the combined references fails to teach or suggest all the elements recited in these claims.

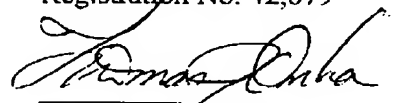
For at least this reason, applicant submits the reason for the rejection has been overcome and respectfully requests withdrawal of the rejection and allowance of independent claims 1, 5 and 10.

With regard to claims 2, 4 and 6-9, these claims depend from an independent claim discussed above, which have been shown to be allowable in view of the cited reference. Accordingly, each of claims 2, 4 and 6-9 is also allowable by virtue of its dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. Entry of this amendment and a Notice of Allowance is respectfully requested.

Respectfully submitted,

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